

STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO, EASTERN DIVISION - CLEVELAND

In re:	)	CASE NO. 17-17361
)	
RICHARD M. OSBORNE	)	CHAPTER 11
)	
Debtor	)	JUDGE ARTHUR I. HARRIS
)	
	)	MOTION OF CENTER STREET SCHOOL
	)	CONDOMINIUMS AND COACHHOUSES
	)	UNIT OWNERS' ASSOCIATION, INC. FOR
	)	RELIEF FROM STAY AND
	)	ABANDONMENT
)	
	)	(Property Located at: 7482 Center Street #5,
	)	Mentor, OH 44060)

Center Street School Condominiums and Coachhouses Unit Owners' Association, Inc. (the "Movant") moves this Court, under Bankruptcy Code §§361, 362, 363, 554, and other sections of Title 11 of the United States Code, and under Federal Rule of Bankruptcy Procedure 4001 and 6007, and under Local Bankruptcy Rule 4001-1, for an order conditioning, modifying or dissolving the automatic stay imposed by Bankruptcy Code §362, and for Abandonment of property under Bankruptcy Code §554. In support of this Motion, the Movant states:

MEMORANDUM IN SUPPORT

1. The Court has jurisdiction over this matter under 28 U.S.C. §§157 and 1334. This is a core proceeding under 28 U.S.C. §157(b)(2). The venue of this case and this motion is proper under 28 U.S.C. §§1408 and 1409.

2. On June 27, 2008, the Debtor, Richard M. Osborne, Trustee (collectively, the “Debtor”) became owner of the Condominium unit at 7482 Center Street #5, Mentor, OH 44060 as more fully described in the copy of the Warranty Deed, which is attached to this Motion as Exhibit “A”, and, by virtue of ownership, automatically became a member of Movant and subject to its Declaration of Condominium Ownership which was recorded with the Office of the Lake County Recorder at Instrument No. 2008R018449.

3. N/A

4. Pursuant to Ohio Revised Code §5311.18 and the covenants and conditions of the Declaration of Condominium Ownership, Movant prepared a lien when Debtor became delinquent paying assessments, which were duly perfected in the office of the Lake County Recorder on May 8, 2018, as Instrument No. 2018R011166. A copy of this recorded lien is attached hereto as Exhibit “B” and made a part hereof. The lien is believed to be the 3rd lien on the condominium unit (the “Collateral”).

5. N/A

6. N/A

7. N/A

8. N/A

9. The market value of the Collateral is \$150,000.00. This is the valuation as set by the Lake County Auditor.

10. As of the date of this motion, there is currently due and owing the outstanding balance of \$3,979.92 as described in more detail on the worksheet. The total provided in this paragraph cannot be relied upon as a payoff quotation.

11. N/A.

12. Other parties known to have an interest in the Collateral besides the debtor(s), the Movant, and the trustee are (check all that apply):

- ☐ N/A.
- ☐ N/A
- ☐ <CO-OWNERS, IF APPLICABLE, STATE NAME>.
- ☒ The Huntington National Bank by virtue of a mortgage lien in the original principal amount of \$268,000.00.
- ☒ RBS Citizen's N.A. d/b/a/ Charter One by virtue of a mortgage lien in the original principal amount of \$12,960,000.00 [*covers this property and others*].

13. Movant is entitled to relief from the automatic stay under Bankruptcy Code §362(d) for these reason(s):

- (a) Debtor has failed to make periodic payments to Movant since the commencement of this bankruptcy case, which unpaid payments are in the aggregate amount of \$3,751.60 through October 30, 2018. The total provided in this paragraph cannot be relied upon as a postpetition reinstatement quotation.

14. Movant has completed the worksheet, attached as Exhibit "C".

15. Movant is entitled to an order directing the trustee to abandon the Collateral under 11 U.S.C. §554(b) for these reasons (check all that apply):

- (a) The Collateral is of inconsequential value and benefit to the estate because upon liquidation of the Collateral no proceeds will remain for the benefit of the estate.

16. This Motion conforms to the standard form adopted in this District except as follows: **this Motion deviates from the standard form because Movant is a condominium owners association that is entitled to relief as more fully explained hereinabove.**

17. **Moreover, Movant is entitled to relief from the stay pursuant to Bankruptcy Code §362(d)(2) because the Debtor has no equity in the Collateral and the Collateral is not necessary for an effective reorganization. Moreover, the collateral is not the Debtor's**

residence, and, upon information and belief, is not necessary for the Debtor's reorganization.

WHEREFORE, Movant prays for an order from the Court:

- (a) Granting Movant relief from the automatic stay of Bankruptcy Code §362 to permit Movant to proceed under applicable nonbankruptcy law; and
- (b) Granting Movant abandonment of the collateral under Bankruptcy Code §554(b) because the collateral is burdensome to the estate and is of inconsequential value and benefit to the estate because no proceeds will remain for the benefit of the estate following liquidation.

Respectfully submitted

KAMAN & CUSIMANO, LLC

/s/ Shannon M. McCormick
Darcy Mehling Good (0068249)
Shannon M. McCormick (0084855)
50 Public Square, Suite 2000
Cleveland, OH 44113
(216) 696-0650 / FAX (216) 771-8478
Attorneys for Movant
bankruptcy@kamancus.com

CERTIFICATE OF SERVICE

I certify that on October 31, 2018, a true and correct copy of Motion of Center Street School Condominiums and Coachhouses Unit Owners' Association, Inc. for Relief from Stay and Abandonment was served.

Via the Court's Electronic Case Filing System on these entities and individuals who are listed on the Court's Electronic Mail Notice List:

Frederic P. Schwieg on behalf of Debtor Richard M. Osborne at
fschwieg@schwieglaw.com

Kelly M. Neal, Esq. on behalf of Creditor The Huntington National Bank at
kelly.neal@bipc.com

Timothy P. Palmer, Esq. on behalf of Creditor The Huntington National Bank at
timothy.palmer@bipc.com

Michael S. Tucker, Esq. on behalf of Creditor Citizens Bank, N.A. at
mtucker@ulmer.com

Adam S. Baker on behalf of Creditor Michael E. Osborne, Sr. at
abakerlaw@sbcglobal.net & at adam@bakerlaw.us & at abakerlaw@gmail.com

Gregory P. Amend, Esq. on behalf of Creditor First National Bank of Pennsylvania at
gamend@bdblaw.com, grichards@bdblaw.com

Alison L. Archer, Esq. on behalf of Interested Party Lakeland Community College at
alison.archer@ohioattomeygeneral.gov & at Trish.Lazich@ohioattomeygeneral.gov & at
angelique.dennis-noland@ohioattomeygeneral.gov

Austin B. Barnes, III, Esq. on behalf of Creditor Tax Ease Ohio, LLC at
abames@sandhu-law.com & at bklnotice@sandhu-law.com

Robert D. Barr, Esq. on behalf of Creditor Chicago Title Insurance Company at
rbarr@koehler.law & at rbarr@koehler.law

David T. Brady, Esq. on behalf of Creditor Tax Ease Ohio, LLC at DBrady@Sandhu-
Law.com & at bklnotice@sandhu-law.com

LeAnn E. Covey, Esq. on behalf of Creditor Bank of America, N.A. at
bknotice@clunkhooose.com

Richard W. DiBella, Esq. on behalf of Intervenor Nationwide Mutual Fire Insurance Company at rdibella@dgmblaw.com

Stephen R. Franks, Esq. on behalf of Creditor Bank of America, N.A. at amps@manleydeas.com

Stephen John Futterer, Esq. on behalf of Creditor City of Willoughby at sjfutterer@sbcglobal.net & at r43087@notify.bestcase.com

Melody Dugic Gazda, Esq. on behalf of Respondent Home Savings Bank, Successor by Merger to The Home Savings & Loan Company of Youngstown, Ohio at mgazda@hendersoncovington.com

Dennis J. Kaselak, Esq. on behalf of Claimant Diane M. Osborne at dkaselak@peteribold.com & at Cynthia@peteribold.com

Christopher J. Klym, Esq. on behalf of Creditor Ohio Department of Taxation at bk@hhkwlaw.com

Matthew H. Matheney, Esq. on behalf of Creditor First National Bank of Pennsylvania at mmatheney@bdblaw.com & at bhajduk@bdblaw.com

David M. Neumann, Esq. on behalf of Interested Party Zachary B. Burkons at dneumann@meyersroman.com & at jray@meyersroman.com & at mnowak@meyersroman.com

Kirk W. Roessler, Esq. on behalf of Creditor Estate of Jerome T. Osborne at kroessler@walterhav.com & at kballa@walterhav.com & at slasalvia@walterhav.com

John J. Rutter, Esq. on behalf of Creditor Mentor Lumber & Supply Co. at jrutter@ralaw.com

Frederic P. Schwieg, Esq. on behalf of Attorney Frederic P. Schwieg at fschwieg@schwieglaw.com

Michael J. Sikora, III, Esq. on behalf of Creditor Chicago Title Insurance Company at msikora@sikoralaw.com & at aarasmith@sikoralaw.com

Nathaniel R. Sinn, Esq. on behalf of Creditor First National Bank of Pennsylvania at nsinn@bdblaw.com & at kslatinsky@bdblaw.com

Rachel L. Steinlage, Esq. on behalf of Interested Party Zachary B. Burkons at rsteinlage@meyersroman.com & at jray@meyersroman.com & at mnowak@meyersroman.com & at rbain@meyersroman.com

Andrew M. Tomko, Esq. on behalf of Creditor Tax Ease Ohio, LLC at atomko@sandhu-law.com & at bk1notice@sandhu-law.com

Jeffrey C. Toole, Esq. on behalf of Interested Party Zachary B. Burkons at toole@buckleyking.com & at young@buckleyking.com & at heberlein@buckleyking.com & at toolejr82560@notify.bestcase.com

Maria D. Giannirakis ust06 on behalf of U.S. Trustee United States Trustee at maria.d.giannirakis@usdoj.gov

Scott R. Belhorn ust35 on behalf of U.S. Trustee United States Trustee at Scott.R.Belhorn@usdoj.gov

And by regular U.S. mail, postage prepaid, to:

Richard M. Osborne, Trustee, 7265 Markell Road, Waite Hill, OH 44094
Debtor

/s/ Shannon M. McCormick
Darcy Mehling Good (0068249)
Shannon M. McCormick (0084855)
KAMAN & CUSIMANO, LLC
50 Public Square, Suite 2000
Cleveland, OH 44113
(216) 696-0650 / FAX (216) 771-8478
bankruptcy@kamancus.com

3

COUNTY OF LAKE

FRANK A. SUPONCIC, CPA, CFE
RECORDER

EASTERN
LAKE COUNTY
(440) 350-2510

WESTERN
LAKE COUNTY
(440) 918-2510

FAX
(440) 350-5940



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2008R018449

LAKE COUNTY OHIO
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06/27/2008 02:28:36PM

FRANK A SUPONCIC, CPA, CFE
LAKE COUNTY RECORDER
REC FEE: \$28.00
PAGES: 3

IMPORTANT RECORDING INFORMATION

This cover sheet is a permanent addition to the original document and **MUST** be retained with the document that was filed and/or recorded.

Reflected hereon is the pertinent recording information:

- File Number
- Date Filed
- Time Filed
- Recording Fee
- Number of Pages Recorded

Thank You



105 MAIN STREET • P.O. BOX 490 • PAINESVILLE, OHIO 44077
www.lakecountyrecorder.org • E-mail: recorder@lakecountyohio.org

EXHIBIT

A

QUIT CLAIM DEED

This Conveyance has been examined
and the Grantor has complied with
Section 319.202 of the Revised Code.
1864 FEE \$1,344 336
6-27-08 EXEMPT
Edward H. Zupnick, County Auditor

KNOW ALL MEN BY THESE PRESENTS:

That **CENTER STREET SCHOOL CONDOMINIUMS AND COACHHOUSES, LLC**,
an **Ohio Limited Liability Company**, the Grantor, who claims title by or through
instrument recorded as Document No. _____ of Lake County Deed Records,
for the consideration of *Ten and No/100 Dollars (\$10.00)* received to its full satisfaction of
RICHARD M. OSBORNE, TRUSTEE, the Grantee, whose Tax Mailing Address will be:
8500 Station Street, Suite 113, Mentor, Ohio 44060, has **given, granted, remised,
released and forever quit-claimed**, and does by these presents absolutely, give, grant,
remise, release and forever quit-claimed unto the said Grantee, his heirs and assigns, all
such right and title as the said Grantor has or ought to have in and to the following
described premises:

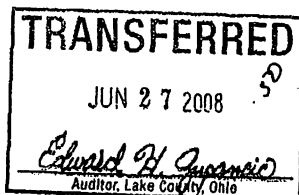
Situated in the City of Mentor, County of Lake and State of Ohio and known as being Unit
No. 5 in Center Street School Condominiums and Coachhouses, whose drawings are
recorded in Volume 57 of Condominium Maps, Page 10 of Lake County Records and as
further described by the Declaration of Condominium Ownership and by laws attached
thereto recorded in Volume 770, Page 1035 of Lake County Records, together with an
undivided percentage interest in and to all the common areas and facilities appurtenant to
said unit as set forth in the Declaration of Condominium Ownership, as the same may be
amended from time to time, which percentage shall automatically change in accordance
with the amended Declarations as the same are filed of record pursuant to the provisions
of said declarations and will attach to the additional common areas and facilities in the
percentages set forth in such amended declarations, which percentages shall automatically
be deemed to be conveyed effective on the recording of each such amended declaration
as though conveyed hereby.

16A-35N-5

out of 16A-35L-39

To have and to hold the above granted and bargained premises, with the appurtenances
thereunto belonging, unto the said Grantee, his heirs and assigns, so that neither the said
Grantor, nor its successors or assigns, nor any other persons claiming title through or
under it, shall or will hereafter claim or demand any right or title to the premises, or any part
thereof; but they and every one of them shall by these presents be excluded and forever
barred.

IN WITNESS WHEREOF, Center Street School Condominiums and Coachhouses,
LLC, sets its hand by Richard M. Osborne, Jr., its Managing Member, this 26TH day of
June, 2008.



**CENTER STREET SCHOOL CONDOMINIUMS
AND COACHHOUSES, LLC**
A Limited Liability Company

by: Richard M. Osborne, Jr.
Richard M. Osborne, Jr., Managing Member


018449

LAKE COUNTY TITLE, LLC
Order No. 08062051

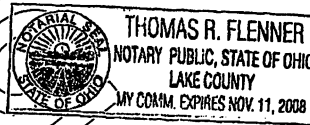
STATE OF OHIO)
COUNTY OF LAKE) ss:

BEFORE ME, a notary public in and for said County, personally appeared the above named Center Street School Condominiums and Coachhouses, LLC, a Limited Liability Company, by Richard M. Osborne, Jr., its Managing Member, who acknowledged that he did sign the foregoing instrument and that the same is the free act and deed of said company and the free act and deed of him personally and as such officer.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal, at Menior, Ohio, this 26th day of June, 2008.


Notary Public

Prepared by:
David J. Richards, Jr., Esq.
Dworken & Bernstein Co., LPA
60 So. Park lace
Painesville, OH 44077



018449



BECKY LYNCH
LAKE COUNTY RECORDER

(440) 350-2510
EASTERN LAKE COUNTY

(440) 350-5940
FAX



* 2 0 1 8 R 0 1 1 1 6 6 2 *

2018R011166

LAKE COUNTY OHIO
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LAKE COUNTY RECORDER
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- Number of pages recorded

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4077-0490

**CENTER STREET SCHOOL CONDOMINIUMS AND COACHHOUSES UNIT OWNERS'
ASSOCIATION, INC.
CERTIFICATE OF LIEN**

Pursuant to Ohio Revised Code § 5311.18 and Article XV, Section 5 of the Declaration of Condominium Ownership for Center Street School Condominiums and Coachhouses, filed for record in Instrument No. 2008R017625, *et seq.* of Lake County Records, the undersigned, Center Street School Condominiums and Coachhouses Unit Owners' Association, Inc., hereby claims a lien against the following unit in said Condominium Property and the appurtenant undivided interest in the Common Elements:

Record Owner: Richard M. Osborne, Trustee
Description of Unit: 7482 Center Street #5 PPN:16B035N000050
Mentor, OH 44060
Amount: \$1,935.96, plus interest at 8% per annum from the 19th day of April, 2018 and any unpaid assessments accruing hereinafter until this lien is satisfied.

State of Ohio, }
County of LAKE } ss

IN WITNESS WHEREOF, Center Street School Condominiums and Coachhouses Unit Owners' Association, Inc. has caused this Certificate of Lien to be executed by its duly authorized representative this 25 day of April, 2018.

Center Street School Condominiums and Coachhouses Unit
Owners' Association, Inc.

By: [Signature]
Michael Cavotta, President

Subscribed and sworn to before me by Michael Cavotta, President this 25 day of April, 2018.



[Signature]
Notary Public

This instrument was prepared by Shannon M. McCormick, Esq.
Kaman & Cusimano, LLC, 50 Public Square, Suite 2000, Cleveland, OH 44113 (216) 556-2268
THE CLAIM SECURED BY THIS LIEN HAS BEEN PAID AND THE LIEN IS HEREBY SATISFIED AND DISCHARGED.

DATE: _____ Center Street School Condominiums and Coachhouses Unit Owners' Association, Inc.

By: _____
Designated Representative

State of Ohio, }
County of _____ } ss

Subscribed and sworn to before me by _____ this _____ day of _____

Notary Public

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO, EASTERN DIVISION - CLEVELAND

In re:	)	CASE NO. 17-17361
)	
RICHARD M. OSBORNE	)	CHAPTER 11
)	
Debtor	)	JUDGE ARTHUR I. HARRIS
)	
	)	CENTER STREET SCHOOL
	)	CONDOMINIUMS AND COACHHOUSES
	)	UNIT OWNERS' ASSOCIATION, INC.'S
	)	RELIEF FROM STAY AND
	)	ABANDONMENT WORKSHEET

I. LOAN* DATA

*Movant is a Condominium owners association and, therefore the Motion does not involve a "LOAN"

A. IDENTIFICATION OF COLLATERAL (check all that apply):

- ☒ Real Estate 7482 Center Street #5, Mentor, OH 44060
 - ☐ Principal Residence of Debtor(s)
 - ☒ Other
- ☐ Personal Property
- ☐ Other Property [[describe if applicable]]

B. CURRENT VALUE OF COLLATERAL: \$150,000.00

C. SOURCE OF COLLATERAL VALUATION: Lake County Auditor

D. ORIGINAL LENDER: N/A

E. ENTITY ENTITLED TO ENFORCE THE NOTE: N/A

F. CURRENT LOAN SERVICER: N/A

G. DATE OF LOAN: N/A

Exhibit "C"

- H. ORIGINAL PRINCIPAL AMOUNT DUE UNDER NOTE: N/A
- I. ORIGINAL INTEREST RATE ON NOTE: N/A
- J. CURRENT INTEREST RATE: N/A
- K. ORIGINAL MONTHLY PAYMENT AMOUNT
(principal and interest only for mortgage loans): N/A
- L. CURRENT MONTHLY PAYMENT AMOUNT: \$315.66
- M. THE CURRENT MONTHLY PAYMENT AMOUNT LISTED ABOVE:
- ☐ Includes an escrow amount of \$_____ for real estate taxes.
 - ☐ Includes an escrow amount of \$_____ for property insurance.
 - ☐ Includes an escrow amount of \$_____ for _____.
 - ☒ Does not include any escrow amount.
- N. DATE LAST PAYMENT RECEIVED: November 2, 2017
- O. AMOUNT OF LAST PAYMENT RECEIVED: \$315.77
- P. AMOUNT HELD IN SUSPENSE ACCOUNT: N/A
- Q. NUMBER OF PAYMENTS PAST DUE: N/A

II. AMOUNT ALLEGED TO BE DUE AS OF THE DATE THE MOTION IS FILED

	<u>Description of Charge</u>	<u>Total Amount of Charges</u>	<u>Number of Charges Incurred</u>	<u>Dates Charges Incurred</u>
A.	PRINCIPAL	\$ N/A		
B.	INTEREST	\$ N/A		
C.	TAXES	\$ N/A		
D.	INSURANCE	\$ N/A		
E.	LATE FEES	\$ N/A		

F.	NON-SUFFICIENT FUNDS FEES	\$ N/A		
G.	PAY-BY-PHONE FEES	\$ N/A		
H.	BROKER PRICE OPINIONS	\$ N/A		
I.	FORCE-PLACED INSURANCE	\$ N/A		
J.	PROPERTY INSPECTIONS	\$ N/A		
K.	OTHER CHARGES (describe in detail and state contractual basis for recovering the amount from the debtor)	\$ N/A		

SEE ATTACHED POST-PETITION ACCOUNT HISTORY

Arrearages:

BEFORE DATE OF FILING: \$ 228.32
AFTER DATE OF FILING: \$ 3,751.60

TOTAL DEBT: \$ 3,979.92
LESS AMOUNT HELD IN SUSPENSE: \$N/A

TOTAL OF DEBT AS OF DATE MOTION IS FILED: \$ 3,979.92

* This total cannot be relied upon as a payoff quotation.

This Worksheet was prepared by:

/s/ Shannon M. McCormick
Darcy Mehling Good (0068249)
Shannon M. McCormick (0084855)
KAMAN & CUSIMANO, LLC
50 Public Square, Suite 2000
Cleveland, OH 44113
(216) 696-0650 / FAX (216) 771-8478
bankruptcy@kamancus.com

Homeowner Transaction History
Center Street
Account#: 1166000901

Rick Osborne
7482 Center Street # 5
Mentor, OH 44060

Property Address
7482 Center Street # 5
Mentor, OH 44060

Posting Date	Posting Code	Description	Notation Ref #	Amount	Open Amount	Balance
1/1/2018	Maint Fee	January 2018 - Maintenance Fee		\$315.66	\$315.66	\$315.66
1/11/2018	Late Fee	Late Fee		\$25.00	\$25.00	\$340.66
2/1/2018	Maint Fee	February 2018 - Maintenance Fee		\$315.66	\$315.66	\$656.32
2/12/2018	Late Fee	Late Fee		\$25.00	\$25.00	\$681.32
3/1/2018	Maint Fee	March 2018 - Maintenance Fee		\$315.66	\$315.66	\$996.98
3/7/2018	Legal Fee	COLLECTION LETTER		\$95.00	\$95.00	\$1,091.98
3/12/2018	Late Fee	Late Fee		\$25.00	\$25.00	\$1,116.98
4/1/2018	Maint Fee	April 2018 - Maintenance Fee		\$315.66	\$315.66	\$1,432.64
4/11/2018	Late Fee	Late Fee		\$25.00	\$25.00	\$1,457.64
5/1/2018	Maint Fee	May 2018 - Maintenance Fee		\$315.66	\$315.66	\$1,773.30
5/11/2018	Late Fee	Late Fee		\$25.00	\$25.00	\$1,798.30
6/1/2018	Maint Fee	June 2018 - Maintenance Fee		\$315.66	\$315.66	\$2,113.96
6/11/2018	Legal Fee	LIEN		\$250.00	\$250.00	\$2,363.96
6/12/2018	Late Fee	Late Fee		\$25.00	\$25.00	\$2,388.96
7/1/2018	Maint Fee	July 2018 - Maintenance Fee		\$315.66	\$315.66	\$2,704.62
7/12/2018	Late Fee	Late Fee		\$25.00	\$25.00	\$2,729.62
8/1/2018	Maint Fee	August 2018 - Maintenance Fee		\$315.66	\$315.66	\$3,045.28
8/13/2018	Late Fee	Late Fee		\$25.00	\$25.00	\$3,070.28
9/1/2018	Maint Fee	September 2018 - Maintenance Fee		\$315.66	\$315.66	\$3,385.94
9/12/2018	Late Fee	Late Fee		\$25.00	\$25.00	\$3,410.94
10/1/2018	Maint Fee	October 2018 - Maintenance Fee		\$315.66	\$315.66	\$3,726.60
10/13/2018	Late Fee	Late Fee		\$25.00	\$25.00	\$3,751.60